IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.494 OF 2005

Francis Joseph Thanicatt
and Anr. ..Petitioners

Vs.

State of Maharashtra & Anr. ...Respondents

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Mr. N.K.Iyer Advocate for Petitioners
Mr. A.P.D. Fernandes for Respondent no.2
Mr. V.B.Konde-Deshmukh, A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 26,2005

P.C.

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners are seeking quashing of process issued by the learned Addl. Chief M.M., 9th Court, Bandra, Mumbai in C.C.No.340/S/2000 renumbered as 446/S/2002 and pending before the 21st Court, Bandra, Mumbai. In the said case process is issued

under Section 138 of Negotiable Instruments Act. The petitioners have preferred an application before the learned Magistrate for recall of process, however, during the pendency of the said application, the judgment in the case of **Adalat Prasad Vs. Rooplal Jindal and Ors. [2004(4) Mh.L.J.274]** came to be reported, hence, the petitioners have approached this Court.

3. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioners makes a statement that the necessary

revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]